

Office of the City Attorney
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September 13, 2004

Timothy J. Warzecha
Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP
600 University, Suite 2100
Seattle, WA 98101

Re: *Sesko v. City of Bremerton*
U.S. District Court No. C04-5081

Dear Mr. Warzecha:

I apologize for any confusion around the dismissal of BRC, Inc. from the Sesko matter.

As you know, the City, BRC and Parametrix were originally parties to a lawsuit brought by the Seskos in federal court concerning, among other things, the remediation efforts on the Seskos' property. BRC's contract with the City had a defense and indemnity provision, as well as a requirement to name the City as an additional insured.

The City's contract with Parametrix had similar provisions.

On December 30, 2004 the City tendered a statutory claim for damages to Ohio Casualty (BRC's insurer) for this claim under the Additional Insured Endorsement. A copy was sent to your client. A copy is enclosed.

On March 11, 2004 the City tendered defense of the subsequent lawsuit to Ohio Casualty Insurance Company under its Additional Insured Endorsement. A copy is enclosed.

On April 2, 2004 counsel for Parametrix confirmed the City's agreement to their dismissal from the Sesko lawsuit. A copy of this letter is provided. The City agreed to withdraw its tender of defense based on the contract provision, but not its tender to Parametrix's insurer under the Additional Insured Endorsement.

You then contacted me and asked if the City would agree to a similar stipulation and dismissal for BRC, Inc. I do not recall the specifics of the conversation. I do know, however, that I made no commitment to withdraw the tender under the AIE.

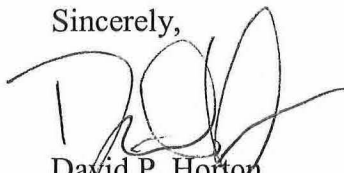
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By letter dated July 22, 2004 Ohio Casualty accepted the City's tender. A copy is enclosed.

If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Horton', with a large, stylized loop at the end.

David P. Horton
Assistant City Attorney

Enclosures

cc (w/enc.): Mark Garrison file #COLO 6 GF 03 254127 C

cc (w/o enc.): Peggy Lesser

Janet Lunceford